



Eden Environmental Citizen's Group

JUL 11 2018

60-Day Notice of Intent to Sue  
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Michele Wong  
Synergex Ventures, Inc.  
2330 Gold Meadow Way  
Gold River, CA 95670  
[michele.wong@synergex.com](mailto:michele.wong@synergex.com)

William Mooney  
Synergex International Corporation  
2330 Gold Meadow Way  
Gold River, CA 95670  
[info@synergex.com](mailto:info@synergex.com)  
[William.mooney@synergex.com](mailto:William.mooney@synergex.com)

Jennifer Claiborne  
Cleanworld SATS BioDigester, LLC  
2330 Gold Meadow Way  
Gold River, CA 95670  
[Jennifer.claiborne@cleanworld.com](mailto:Jennifer.claiborne@cleanworld.com)

Wayne Prim  
Creative Energy Strategies, LLC  
Incline Clean Energy, LLC  
c/o Prim Ventures, Inc.  
P.O. Box 12219  
Zephyr Cove, NV 89448  
[wayne@primventuresinc.com](mailto:wayne@primventuresinc.com)

Doug Sloan  
Sacramento County DWMR  
9850 Goethe Road  
Sacramento, CA 95827-3500  
[sloand@saccountv.net](mailto:sloand@saccountv.net)  
[eubanksd@saccountv.net](mailto:eubanksd@saccountv.net)

Robyn Bea Truitt Drivon  
Sacramento County Counsel  
700 H Street, Suite 2650  
Sacramento, CA 95814  
[drivonr@saccountv.net](mailto:drivonr@saccountv.net)

Ini Ghidirmic  
Registered Agent for  
Incline Clean Energy, LLC and  
CleanWorld SATS Biodigester, LLC  
1800 E Tahquitz Canyon Way  
Palm Springs, CA 92262  
[ini@primventuresinc.com](mailto:ini@primventuresinc.com)

**Re: 60-Day Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act ("Clean Water Act")**

To Officers, Directors, Operators, Property Owners and/or Facility Managers of Synergex International Corporation, Synergex Ventures Incorporated, Cleanworld SATS BioDigester LLC, Incline Clean Energy LLC, Creative Energy Strategies LLC and Prim Ventures, Inc.

I am writing on behalf of Eden Environmental Citizen's Group ("EDEN") to give legal notice that EDEN intends to file a civil action against William Mooney, Michelle Wong, Jennifer Claiborne, Wayne Prim, Synergex International Corporation, Synergex Ventures, Incorporated, Cleanworld SATS BioDigester LLC, Incline Clean Energy LLC, Creative Energy Strategies LLC and Prim Ventures, Inc. ("Discharger"), and Sacramento County Department of Waste Management and Recycling ("Property Owner") for violations of the Federal Clean Water Act ("CWA" or "Act") 33 U.S.C. § 1251 *et seq.*, that EDEN believes are occurring at the Cleanworld SATS/Incline Clean Energy facility located at 8550 Fruitridge Boulevard in Sacramento, California ("the Facility" or "the site").

EDEN is an environmental citizen's group established under the laws of the State of California to protect, enhance, and assist in the restoration of all rivers, creeks, streams, wetlands, vernal pools, and tributaries of California, for the benefit of its ecosystems and communities.

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of intent to file suit. 33 U.S.C. § 1365(b). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the State in which the violations occur.

As required by CWA section 505(b), this Notice of Violation and Intent to File Suit provides notice to the Discharger and Property Owner of the violations which have occurred and continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, EDEN intends to file suit in federal court against the Discharger and the Property Owner under CWA section 505(a) for the violations described more fully below.

2151 Salvio Street #A2-319  
Telephone: 925-732-0960



Concord, CA 94520  
Email: [edenenvcitizen@gmail.com](mailto:edenenvcitizen@gmail.com)

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**I. THE SPECIFIC STANDARD, LIMITATION, OR ORDER VIOLATED**

EDEN's investigation of the Facility has uncovered significant, ongoing, and continuous violations of the CWA and the General Industrial Storm Water Permit issued by the State of California (NPDES General Permit No. CAS000001 [State Water Resources Control Board ("SWRCB")]) Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("1997 Permit") and by Order No. 2014-0057-DWQ ("2015 Permit") (collectively, the "General Permit").

Information available to EDEN, including documents obtained from California EPA's online Storm Water Multiple Application and Reporting Tracking System ("SMARTS"), indicates that on or around September 19, 2014, the Discharger submitted a Notice of Intent ("NOI") to be authorized to discharge storm water from the Facility under the 1997 Permit. On or around June 25, 2015, the Discharger submitted an NOI to be authorized to discharge storm water from the Facility under the 2015 Permit. The SWRCB approved the NOIs, and the Discharger was assigned Waste Discharger Identification ("WDID") number 5S341025066.

As more fully described in Section III, below, EDEN alleges that in its operations of the Facility, the Discharger has committed ongoing violations of the substantive and procedural requirements of the Federal Clean Water Act, California Water Code §13377; the General Permit, the Regional Water Board Basin Plan, the California Toxics Rule (CTR) 40 C.F.R. § 131.38, and California Code of Regulations, Title 22, § 64431.

**II. THE LOCATION OF THE ALLEGED VIOLATIONS**

**A. The Facility**

The location of the point sources from which the pollutants identified in this Notice are discharged in violation of the CWA is Cleanworld SATS/ Incline Clean Energy's permanent facility address of 8550 Fruitridge Boulevard in Sacramento, California.

The Cleanworld SATS/ Incline Clean Energy facility is a solid waste processing center which utilizes metal processing tanks and pumps to convert solid wastes through an anaerobic digestion system ("Biodigester") into soil amendment products and usable clean energy products. Facility Operations are covered under Standard Industrial Classification Codes (SIC) 2869- Industrial Organic Chemicals, and 3443 - Fabricated Plate Work.

Based on EPA's Industrial Storm water Fact Sheet for Sector C - Chemicals, including Agricultural Chemicals, polluted discharges from fertilizer mixing facilities such as the Facility contain pH affecting substances; metals, such as iron and aluminum; total suspended solids ("TSS"); benzene, gasoline and diesel fuels; fuel additives; coolants; and oil and grease ("O&G"). Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm.

Information available to EDEN indicates that the Facility's industrial activities and associated materials are exposed to storm water, and that each of the substances listed on the EPA's Industrial Storm Water Fact Sheet is a potential source of pollutants at the Facility.

**B. The Affected Receiving Waters**

The Facility discharges to Morrison Creek, which flows to the American River, then to the Sacramento River/Sacramento-San Joaquin Delta Watershed ("Receiving Waters").

The Sacramento River is a water of the United States. The CWA requires that water bodies such as the Sacramento River meet water quality objectives that protect specific "beneficial uses." The Central Valley Regional Water Board has issued its *Water Quality Control Plan for the Sacramento and San Joaquin River Basins* ("Basin Plan") to delineate those water quality objectives.

The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the Receiving Waters downstream of the Facility include: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply (PRO), Industrial Service Supply (IND), Navigation (NAV), Water Contact Recreation (REC-1), Non-contact Water Recreation (REC-2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Migration (MIGR), and Spawning, Reproduction, and/or Early Development (SPWN).

A water body is impaired pursuant to section 303(d) of the Clean Water Act, 33 U.S.C. § 1313(d), when its Beneficial Uses are not being achieved due to the presence of one or more pollutants. The San Joaquin River is impaired for Selenium, Salinity, Total Dissolved Solids (TDS), Electrical Conductivity (EC), Boron, Organophosphorus (OP) Pesticides (Diazinon, Chlorpyrifos), Oxygen-Demanding Substances (BOD/Algae, Ammonia, Organic N) Organochlorine "Legacy" Pesticides (DDT, Chlordane, Dieldrin, Toxaphene, etc.) Mercury, Pathogen-Indicator Organisms, E. coli, Fecal Coliforms, and Toxicity of Unknown Cause. Morrison Creek is impaired for Toxicity.

Polluted storm water and non-storm water discharges from industrial facilities, such as the Facility, contribute to the further degradation of already impaired surface waters, and harm aquatic dependent wildlife.

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### III. VIOLATIONS OF THE CLEAN WATER ACT AND GENERAL PERMIT

#### A. NPDES Permit Coverage Issues

##### 1. Failure to Apply for NPDES Coverage - Incline Clean Energy, LLC

The CWA prohibits storm water discharges without a permit. 33 U.S.C. § 1342, 40 C.F.R. § 122.26. The General Permit regulates operators of facilities subject to coverage under the National Pollutant Discharge Elimination System (NPDES) storm water permit, as these operators discharge storm water associated with specific industrial activities identified by both industrial activity and SIC (Standard Industrial Classification) codes in Attachment A of the Permit.

The Discharger's primary industrial activity is listed on Attachment A as an industrial activity subject to NPDES coverage. Thus, the facility was required to apply for coverage under the Permit in order to commence business operations, pursuant to Section I.Q of the Permit.

According to EDEN's investigation, including a review of the records on file with the California Department of Resources Recycling and Recovery ("CalRecycle") and the California Secretary of State, in October of 2017, Cleanworld SATS transferred the Facility to Incline Clean Energy, LLC, a Nevada LLC formed by some of the principals of Cleanworld.

Section XXI.R of the General Permit provides that: "Coverage under this General Permit is non-transferable. When operation of the facility has been transferred to another entity, or a facility is relocated, new PRDs for NOI and NEC coverage must be certified and submitted via SMARTS prior to the transfer."

Furthermore, pursuant to Section I.I.C.2 of the General Permit: "When ownership changes, the prior Discharger (seller) must inform the new Discharger (buyer) of the General Permit applications and regulatory coverage requirements. The new Discharger must certify and submit new PRDs via SMARTS to obtain coverage under this General Permit."

Section II.B.5 provides that "New Dischargers registering for NOI coverage on or after July 1, 2015 shall certify and submit PRDs via SMARTS at least seven (7) days prior to commencement of industrial activities or on July 1, 2015, whichever comes later."

To date, Incline Clean Energy, LLC, the new legal owner of the Facility, has not applied for permit coverage. Thus, between at least October 2017 and the present, the Facility has technically operated without NPDES Permit coverage. During that time, the Facility did not comply with any of the terms of the Permit, including implementing Best Management Practices, collecting and analyzing storm water runoff for pollution parameters, preparing and implementing a Storm Water Pollution Prevention Plan, or filing Annual Reports.

Permit noncompliance constitutes a violation of the Clean Water Act and the Water Code, is grounds for enforcement action against the Facility and is further a violation of Sections I and II.B.1.b of the General Permit.

##### 2. Late Application for NPDES Coverage - Cleanworld SATS

EDEN's investigation has revealed that Cleanworld SATS registered as a California LLC with the California Secretary of State on August 12, 2013. According to CalRecycle records, Cleanworld SATS began full operations at the Facility on or before March 27, 2013. However, Cleanworld SATS did not in fact file for NPDES permit coverage under the 2015 General Permit until September 19, 2014. Thus, between at least March 27, 2013, and September 19, 2014, Cleanworld SATS operated the Facility without NPDES coverage, in violation of Sections I and II.B of the General Permit.

##### 3. Failure to File a Notice of Termination - Cleanworld SATS

Pursuant to Section II.C.1 of the General Permit, "Dischargers with NOI or NEC coverage shall request termination of coverage under the General Permit when either (a) operation of the facility has been transferred to another entity, (b) the facility has ceased operations, completed closure activities, and removed all industrial related pollutants, or (c) the facility's operations have changed and are no longer subject to the General Permit. Dischargers shall certify and submit a Notice of Termination via SMARTS. Until a valid NOT is received, the Discharger remains responsible for compliance with this General Permit and payment of accrued annual fees."

Cleanworld SATS BioDigester, LLC filed a Certificate of Cancellation of its LLC with the California Secretary of State on October 10, 2017. Also on October 10, 2017, Incline Clean Energy, LLC, a Nevada Limited Liability Company, filed with the California Secretary of State an Application to Register the Foreign LLC. Soon thereafter, Cleanworld SATS transferred operation of the Facility to Incline Clean Energy and apparently ceased operation of the Facility.

To date, Cleanworld SATS has failed to file a Notice of Termination with the Regional Water Board and remains fully responsible for compliance with all the requisite terms of the General Permit.

#### B. Failure to Develop, Implement and/or Revise an Adequate Monitoring and Reporting Program Pursuant to the General Permit

Section XI of the General Permit requires Dischargers to develop and implement a storm water monitoring and reporting program ("M&RP") prior to conducting industrial activities. Dischargers have an ongoing obligation to revise the M&RP as necessary to ensure compliance with the General Permit.

The objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge, and to ensure compliance with the General Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the Facility, and it must be evaluated and revised whenever appropriate to ensure compliance with the General Permit.

##### 1. Failure to Conduct Visual Observations

Section XI(A) of the General Permit requires all Dischargers to conduct visual observations at least once each month, and sampling observations at the same time sampling occurs at a discharge location.

Observations must document the presence of any floating and suspended material, oil and grease, discolorations, turbidity, odor and the source of any pollutants. Dischargers must document and maintain records of observations, observation dates, locations observed, and responses taken to reduce or prevent pollutants in storm water discharges.

EDEN alleges that between July 1, 2015, and the present, the Discharger has failed to conduct monthly and sampling visual observations pursuant to Section XI(A) of the General Permit.

##### 2. Failure to Collect the Required Number of Storm Water Samples

In addition, EDEN alleges that the Discharger has failed to provide the Regional Water Board with the minimum number of annual documented results of facility run-off sampling as required under Sections XI.B.2 and XI.B.11.a of Order No. 2014-0057-DWQ, in violation of the General Permit and the CWA. In fact, since the date of its application for coverage under California's Industrial General Permit, the Discharger has failed to collect and analyze even one storm water run-off sample.

Section XI.B.2 of the General Permit requires that all Dischargers collect and analyze storm water samples from two Qualifying Storm Events ("QSEs") within the first half of each reporting year (July 1 to December 31), and two (2) QSEs within the second half of each reporting year (January 1 to June 30).

Section XI.C.6.b provides that if samples are not collected pursuant to the General Permit, an explanation must be included in the Annual Report.

As of the date of this Notice, the Discharger has failed to upload into the SMARTS database system:

- a. Two storm water sample analyses for the time period July 1, 2015, through December 31, 2015. Qualified Storm Events occurred in the vicinity of the

facility on at least the following relevant dates: 11/2/15, 11/8/15, 11/15/15, 12/3/15, 12/10/15, 12/13/15 and 12/19/15 and 12/21/15;

- b. Two storm water sample analyses for the time period January 1, 2016, through June 30, 2016. Qualified Storm Events occurred in the vicinity of the facility on at least the following relevant dates: 1/4/16, 1/10/16, 1/13/16, 1/16/16, 1/22/16, 1/30/16, 2/18/16, 3/4/16, 3/11/16, 4/9/16, 4/22/16, 4/28/16 and 5/21/16;
- c. Two storm water sample analyses for the time period July 1, 2016, through December 31, 2016. Qualified Storm Events occurred in the vicinity of the facility on at least the following relevant dates: 10/14/16, 10/16/16, 10/25/16, 10/30/16, 11/1/16, 11/9/16, 11/23/16, 11/26/16, 12/8/16, 12/10/16, 12/15/16 and 12/23/16;
- d. Two storm water sample analyses for the time period January 1, 2017, through June 30, 2017. Qualified Storm Events occurred in the vicinity of the facility on at least the following relevant dates: 1/2/17, 1/7/17, 1/10/17, 1/18/17, 2/2/17, 2/6/17, 2/17/17, 2/20/17, 3/5/17, 3/21/17, 3/24/17, 4/7/17, 4/13/17, 4/16/17 and 4/22/17;
- e. Two storm water sample analyses for the time period July 1, 2017, through December 31, 2017. Qualified Storm Events occurred in the vicinity of the facility on the following relevant dates: 10/19/17, 11/8/17, 11/15/17, and 11/27/17, and
- f. Two storm water sample analyses for the time period January 1, 2018, through June 30, 2018. Qualified Storm Events occurred in the vicinity of the facility on at least the following relevant dates: 1/3/18, 1/8/18, 1/22/18, 1/24/18, 2/26/18, 3/1/18, 3/8/18, 3/13/18, 3/20/18, 4/6/18, 4/16/18 and 5/25/18.

#### C. Falsification of Annual Reports Submitted to the Regional Water Board

Section XXI.L of the General Permit provides as follows:

##### L. Certification

Any person signing, certifying, and submitting documents under Section XXI.K above shall make the following certification:

"I certify under penalty of law that this document and all Attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly

responsible for gathering the information, to the best of my knowledge and belief, the information submitted is, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Further, Section XXII.N of the General Permit provides as follows:

#### **N. Penalties for Falsification of Reports**

Clean Water Act section 309(c)(4) provides that any person that knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this General Permit, including reports of compliance or noncompliance shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years or by both.

On July 11, 2016, the Discharger submitted its Annual Report for the Fiscal Year 2015-16. The Report was signed under penalty of law by Michele Wong. Ms. Wong is the currently designated Legally Responsible Person ("LRP") for the Discharger.

Ms. Wong responded "Yes" to Question No. 3 on the Annual Report ("Did you sample the required number of Qualifying Storm Events during the reporting year for all discharge locations, in accordance with Section XIB.7?") However, as discussed above, the Discharger failed to collect and analyze any storm water samples during the 2015-16 reporting year.

Based on the foregoing, it is clear that Ms. Wong made a false statement in the Facility's 2015-16 Annual Report when she indicated that the Facility had collected samples according to Section XIB of the General Permit during the reporting year.

#### **D. Failure to File Annual Reports**

The Discharger has failed to comply with Section XVI.A of the General Permit, which provides as follows: "The Discharger shall certify and submit via SMARTS an Annual Report no later than July 15th following each reporting year using the standardized format and checklists in SMARTS."

The Discharger's Annual Report for the reporting year 2016-17 was due on or before July 15, 2017. On August 7, 2015, the Regional Water Board issued a First Notice of Non-Compliance to the Discharger for its failure to submit its Annual Report for the reporting period 2016-17; and on October 5, 2017, the Water Board issued a Final Notice of Non-Compliance. To date, the Discharger has failed to submit its Annual Report for the fiscal year 2016-17.

(2) Piles of wet highly odorous solids observed below and on both sides of the screwpress at 4PM when it was no longer in operation. The screwpress was still dirty when staff were leaving for the day. (3) Two uncovered 55-gallon garbage cans were observed with a few inches of water and mosquito larvae inside.

**December 29, 2016:** Standing water observed in stored barrel. The operator has failed to control mosquito larvae by properly storing unused containers as evidenced and discussed with the operator every month since October 2016.

**January 25, 2017:** (1) An accumulation of feedstock and leachate was observed on the pad behind a blocked drain and under and around the Bioseparator. The Bioseparator and screwpress were not cleaned prior to staff leaving for the day.

(2) Eight leaks/spills identified: DODA discharge pump, Screwpress, misters, piping opposite C skid pump, condensate leak, digestate fluid leak, C skid pump leak and water booster pump. (3) The drain on the feedstock pad was clogged, and there was an accumulation of feedstock and leachate standing over the drain after staff left for the day. CleanWorld staff stated that the drain is undersized and clogs daily, requiring manual cleaning. (4) CleanWorld has failed to maintain equipment throughout the facility. (5) Propagation of mosquito vectors noted. Six barrels or buckets were observed with standing water. (6) Several unsealed and uncontained tanks full of digestate solids no longer being used as in-vessel digesters due to tank wall ruptures were observed on the property, and CleanWorld staff stated they had been stored that way at the facility since 2014.

**February 23, 2017:** Staff observed the following conditions after operational staff left for the day: (1) Feedstock residue and leachate on stored totes and the feedstock pad, and accumulation of feedstock on the pit floor, pit walls and on the bioseparator. (2) The bioseparator chute was full of rejects and digestate. The chute is not typically emptied or cleaned at the end of the day. (3) Accumulation of litter around the pit and blown litter throughout the facility. (4) A 2000-gallon storage tank 95% full of digestate fluid was noted to be without a lid. (5) Multiple piles of unused, broken equipment and parts were seen throughout the facility. (6) Staff observed that there is no lighting around the feedstock pit to facilitate visibility for cleaning.

**March 9, 2017:** A Notice and Order No. 2017-012366-NAO, SWIS No: 34-AA-0232 was issued to CleanWorld SATS and Sacramento County Department of Waste Management and Recycling for permit violations relating to cleaning, drainage and spill control, litter control, maintenance issues, supervision and personnel, vector control, record keeping requirements, equipment maintenance and housekeeping.

**March 13, 2017:** (1) LEA staff observed a build-up of feedstock on the Bioseparator, pit floor, pit walls and drain, even though the facility had not received feedstock for approximately a week. (2) The 2000-gallon tank 95% full of digestate fluid without a lid, discussed with CleanWorld staff and noted on the February 23, 2017 inspection report, still did not have a lid.

#### **E. Deficient BMP Implementation**

Sections I.C, V.A and X.C.1.b of the General Permit require Dischargers to identify and implement minimum and advanced Best Management Practices ("BMPs") that comply with the Best Available Technology ("BAT") and Best Conventional Pollutant Control Technology ("BCT") requirements of the General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice, considering technological availability and economic practicability and achievability.

EDEN alleges that the Discharger has been conducting industrial activities at the site without adequate BMPs to prevent resulting non-storm water discharges. Non-storm water discharges resulting from these activities are not from sources that are listed among the authorized non-storm water discharges in the General Permit, and thus are always prohibited.

The Discharger's failure to develop and/or implement adequate BMPs and pollution controls to meet BAT and BCT at the Facility violates and will continue to violate the CWA and the Industrial General Permit each and every day the Facility discharges storm water without meeting BAT and BCT.

#### **Specific BMP Deficiencies**

Since it commenced operations, the Facility has been inspected nearly every month by CalRecycle staff. Between April 28, 2016 and March 15, 2017, CalRecycle staff inspectors observed the following during routine inspections:

**April 28, 2016:** (1) Spills were observed under and around the DODA Bioseparator and screw press. (2) Screw press waste was left uncovered due to a lack of available propane to operate the forklift required to remove the waste. (3) Rejects bin was full and uncovered.

**July 7, 2016:** (1) Staff observed a pipe leaking a foul-smelling liquid at the union between the two fittings, and noted methane odors around the gas extraction system near the flare. (2) Staff also observed various piles of litter, debris, and empty feedstock waste containers around the site.

**October 17, 2016:** (1) Condensate sump lid was unsealed. Condensate spillage was observed on and around the lid. (2) Two garbage cans observed without lids. (3) Highly odorous digestate fluid leak observed at C Skid Pump. (4) Blue bin had dried feedstock spill. (5) Three screwpress solids totes (one broken with standing water) were observed stored dirty.

**November 23, 2016:** (1) Staff observed three spills: #1: A 3' Glycol spill observed. CleanWorld staff stated that the pipe was repaired recently but spill not cleaned up. #2: A odorous digestate fluid spill was observed behind skid C. CleanWorld staff stated that the leak/spill had occurred 4-5 hours earlier. #3: Screwpress observed covered in dried solids and digestate liquid.

(3) Staff observed multiple piles of unused equipment in the weeds along the eastern property line. (4) Unused equipment was also stored under two tents and in a storage unit.

**March 15, 2017:** Five pallets of food additives in open containers had been left on site for approximately six weeks.

#### **F. Discharges In Violation of the General Permit**

Except as authorized by Special Conditions of the General Permit, Discharge Prohibition III(B) prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. Unauthorized non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.

Information available to EDEN indicates that unauthorized non-storm water discharges occur at the Facility due to inadequate BMP development and/or implementation necessary to prevent these discharges.

EDEN alleges that the Discharger has discharged storm water containing excessive levels of pollutants from the Facility to its Receiving Waters during at least every significant local rain event over 0.1 inches in the last five (5) years.

EDEN hereby puts the Discharger on notice that each time the Facility discharges prohibited non-storm water in violation of Discharge Prohibition III.B of the General Permit is a separate and distinct violation of the General Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

#### **G. Failure to Comply with Facility SWPPP**

Section 5.6.1 of the Facility SWPPP (Sampling Schedule) indicates that the facility will collect and analyze storm water samples from two qualified storm events within the first half of each reporting year (July 1 to December 31) and two QSEs within the second half of each reporting year (January 1 to June 30).

As detailed above, the Facility has failed to collect and analyze even one storm water run-off sample since it began operations at the site.

The Discharger may have had other violations that can only be fully identified and documented once discovery and investigation have been completed. Hence, to the extent possible, EDEN includes such violations in this Notice and reserves the right to amend this Notice, if necessary, to include such further violations in future legal proceedings.

The violations discussed herein are derived from eye witness reports and records publicly available. These violations are continuing.



#### IV. THE PERSON OR PERSONS RESPONSIBLE FOR THE VIOLATIONS

The entities responsible for the alleged violations are: Cleanworld SATS BioDigester LLC, Synergex International Corporation, Synergex Ventures, Inc., Incline Clean Energy, LLC, Creative Energy Strategies, LLC, Prim Ventures, Inc., as well as William Mooney, individually, Michele Wong, individually; Jennifer Claiborne, individually; and Wayne Prim, individually; and Sacramento County Department of Waste Management and Recycling, the Property Owner.

#### V. THE DATE, DATES, OR REASONABLE RANGE OF DATES OF THE VIOLATIONS

The range of dates covered by this 60-day Notice is from at least August 12, 2013, to the date of this Notice. EDEN may from time to time update this Notice to include all violations which may occur after the range of dates covered by this Notice. Some of the violations are continuous in nature; therefore, each day constitutes a violation.

#### VI. CONTACT INFORMATION

The entity giving this 60-day Notice is Eden Environmental Citizen's Group ("EDEN").

Aiden Sanchez  
EDEN ENVIRONMENTAL CITIZEN'S GROUP  
2151 Salvio Street #A2-319  
Concord, CA 94520  
Telephone: (925) 732-0960  
Email: [Edenenvironmentalcitizens@gmail.com](mailto:Edenenvironmentalcitizens@gmail.com) (emailed correspondence is preferred)

To ensure proper response to this Notice, all communications should be addressed to EDEN's General Counsel, Hans W. Herb.

HANS W. HERB  
Law Offices of Hans W. Herb  
P.O. Box 970  
Santa Rosa, CA 95402  
Telephone: (707) 576-0757  
Email: [hans@tankman.com](mailto:hans@tankman.com)

#### VII. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

As discussed herein, the Facility's discharge of pollutants degrades water quality and harms aquatic life in the Receiving Waters. Members of EDEN live, work, and/or recreate near the Receiving Waters. For example, EDEN members use and enjoy the Receiving Waters for

fishing, boating, swimming, hiking, biking, bird watching, picnicking, viewing wildlife, and/or engaging in scientific study. The unlawful discharge of pollutants from the Facility impairs each of these uses.

Further, the Facility's discharges of polluted storm water and non-storm water are ongoing and continuous. As a result, the interests of EDEN's members have been, are being, and will continue to be adversely affected by the failure of the Discharger and Property Owner to comply with the General Permit and the Clean Water Act.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), §1362(5).

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five (5) years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of \$37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009, and \$51,570.00 per day per violation for violations that occurred after November 2, 2015.

In addition to civil penalties, EDEN will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), EDEN will seek to recover its litigation costs, including attorneys' and experts' fees.

#### VIII. CONCLUSION

The CWA specifically provides a 60-day notice period to promote resolution of disputes. EDEN encourages the Discharger, the Property Owner or their counsel to contact EDEN's counsel within 20 days of receipt of this Notice to initiate a discussion regarding the violations detailed herein.

During the 60-day notice period, EDEN is willing to discuss effective remedies for the violations; however, if the Discharger wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. EDEN reserves the right to file a lawsuit if discussions are continuing when the notice period ends.

Very truly yours,

AIDEN SANCHEZ  
Eden Environmental Citizen's Group

Copies to:

Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Roseville, CA 95812-0100

Jeff Sessions, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Regional Administrator  
U.S. EPA – Region 9  
75 Hawthorne Street  
San Francisco, CA, 94105

Executive Director  
Central Valley Regional Water Quality  
Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670